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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,644	05/09/2001	Peter J. Neumayer	SMUS.0008	3598
32864	7590	05/18/2005	EXAMINER	
FISH & RICHARDSON, P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			GEDRICH, SARAH R	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/851,644

Applicant(s)

NEUMAYER, PETER J.

Examiner

Sarah R. Gedrich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 17-19, 22-24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 17-19, 22-24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 14-16 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention via Paper No. 4. Claims 12 and 13 are dependent from claim 11 (previously elected for prosecution), and it is unclear whether claims 12 and 13 are withdrawn or cancelled. Claims 26-28 have been added. Claims 11, 17, and 22-24 have been amended. Claims 11, 17-19, 22-24, and 26-28 have been examined in this Office Action.

Response to Arguments

Applicant's arguments, see amendment, filed 14 February 2005, with respect to 35 USC 101 have been fully considered and are persuasive. The rejection of claims 11, 17-19, and 22-24 has been withdrawn.

Applicant's arguments filed 14 February 2005 have been fully considered but they are not persuasive.

In regards to claims 11, 17, 22, and 24 Applicant argues:

- **“[Walker] does not aggregate the demands and generate a purchase document for those demands ...The buyer must, therefore, give up control over the identity, price, and/or timing of the demand.”**

In response to this argument, the Examiner notes that Walker aggregates demands and allow individuals to take advantage of group discounts associated with volume purchases (Walker: Column 3, lines 8-12). The volume purchases

include a purchase document for the aggregated demands. The Examiner further notes that the buyer-inputted conditions include a "buyer-defined price," "preferred airline(s)," and "acceptable dates and times" (Walker: column 4, lines 40-55). The Examiner further notes that the buyer submits an "expiration date" on the offer (Walker: column 12, lines 64-66).

- **"Walker does not teach or suggest generating a purchase document for aggregated demand and also does not disclose any sort of procurement system"**

In response to this argument, the Examiner notes that Walker aggregates the demands of individual buyers to form aggregated Condition Purchase Offers, which are offered to sellers (Walker: column 3, lines 8-10). Walker further discloses that the aggregated CPOs enable individuals to obtain group discounts and other benefits associated with volume purchases (Walker: Column 3, lines 10-12). The Examiner notes that the aggregated CPO is a volume purchase order. The management system is a procurement system because it enables individuals to receive goods and services.

In regards to claims 18 and 19, the Examiner notes:

A "traverse" is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally

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available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 28 February 2005 has been considered by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 recites "purchase document is generated a predetermined period of time after processing incoming data." It is unclear if the predetermined time period is a deadline for submitting offers or an interval between submitting offers and generating the purchase document. For the purpose of examining, the Examiner interprets the predetermined time period to be a deadline for submitting offers.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11, 17, 22-24, and 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker U.S. Patent No. 6,418,415.

1. Referring to claim 11. Walker discloses a process of aggregating demands comprising the steps of:

- Validating incoming data from one or more buyers in an electronic procurement system so as to ensure said data is valid (at least Walker: column 12, line 64 - column 13, line 15; column 4, lines 27-31);

- Processing said incoming data in the electronic procurement system so as to extract an aggregation rule and at least one demand (at least Walker: Fig. 13A, Fig. 13B, and Fig. 13C);
 - Processing said aggregation rule so as to apply said aggregation rule against said at least one demand to create at least one group of aggregated demands based upon said aggregation rule (at least Walker: Fig. 9); and
 - Generating a purchase document for use by a seller, the purchase document being for an order volume that would fulfill the aggregated demands included in said at least one group (at least Walker: column 4, lines 55-60). The Examiner notes that the aggregated CPO is used as a purchase order to obtain group discounts.
2. Referring to claim 17. Walker discloses a process of creating coalitions of demands comprising the steps of:
- Creating a process ID to identify a process through which said coalitions are to be created (at least Walker: Fig. 9, Rule Number 1210);
 - Creating groups of demands in an electronic procurement system based upon an application of an aggregation rule (at least Walker: Fig.9, CONDITIONS 955);
 - Determining if any attributes of said demands are missing (at least Walker: Fig. 13B, Step 1318);
 - Automatically acquiring any missing attributes from another source using the electronic procurement system (at least Walker: Fig. B, Step 1318);

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- Assigning a unique group ID for each group created and assigning said process ID to said demands (at least Walker: Fig. 9, CPO Number 930);
 - Assigning said demands to said coalitions based upon said group IDs (at least Walker: Fig. 9, CPO Number 930 and CONDITIONS 955); and
 - Once a predetermined time period has passed, closing said coalitions (at least Walker: Fig. 9, AGGREGATE CPO EXPIRATION DATE 950)
 - Generating at least one purchase document for use by a seller, the at least one purchase document being for an order volume that would fulfill the aggregated demands included in at least one coalition (at least Walker: column 4, lines 55-60). The Examiner notes that the aggregated CPO is used as a purchase order to obtain groups discounts.
3. Referring to claim 22. Walker discloses a process of grouping demands input into a system by a user into coalitions of demands comprising the steps of:
- Inputting demands from a buyer into a demand aggregation application (at least Walker: Fig. 13A, Step 1304);
 - Analyzing said demands by applying an aggregation rule to determine if said demands meet criteria of coalition (at least Walker: Fig. 13A, Steps 1314-1318);
 - Proposing to said user said coalitions having criteria that are met by said demands (at least Walker: Fig. 13A, Step 1316);
 - Permitting said user to assign said demands to said coalitions (at least Walker: Fig. 13B, Step 1324; column 5, lines 21-22) (The Examiner notes that the buyer can request to be included in one or more existing aggregate CPOs.);

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- Automatically creating a new coalition to accommodate said demands that do not meet the criteria of a coalition (at least Walker: Fig. 13C, Step 1344); and
 - Generating at least one purchase document for use by a seller, the at least one purchase document being an order volume that would fulfill the aggregated demands included in at least one coalition (at least Walker: column 4, lines 55-60). The Examiner notes that the aggregated CPO is used as a purchase order to obtain groups discounts.
4. Referring to claim 23. Walker discloses a process according to claim 22 as indicated supra. Walker further discloses a process of grouping demands comprising the steps of:
- Determining if any attributes of said demands are missing (at least Fig. 13B, Step 1318); and
 - Acquiring any missing attributes from another source (at least Fig. 13B, Step 1318).
5. Referring to claim 24. Walker discloses a process of aggregating demands according to an aggregation rule comprising the steps of:
- Collecting at an electronic procurement system demands from a plurality of buyers;
 - Determining if any attributes of said demands are missing;
 - Acquiring any missing attributes from another source;

- Creating in the electronic procurement system aggregated demands based upon an application of said aggregation rule (at least Fig. 13A, Fig. 13B, and Fig. 13C); and
 - Generating at least one purchase document for use by a seller, the at least one purchase document being an order volume that would fulfill the aggregated demands included in at least one of said groups (at least Walker: column 4, lines 55-60). The Examiner notes that the aggregated CPO is used as a purchase order to obtain groups discounts.
6. Referring to claim 26. Walker discloses a process of aggregating demands according to claim 11 indicated supra. Walker further discloses a process of aggregating demands comprising:
- Outputting output data indicative of said at least one group to the user for review prior to generating the purchase document (at least Walker: column 5, lines 19-20; "review pending aggregate CPOs").
7. Referring to claim 27. Walker discloses a process of aggregating demands according to claim 11 indicated supra. Walker further discloses a process of aggregating demands wherein:
- The aggregation rule is defined by the buyer (at least Walker: column 5, lines 35). The Examiner notes that by the buyer selecting the CPO into which the buyer's order will be aggregated or by requiring that a confirmation of an individual or a group before permitting entry by another is a buyer defined aggregation rule.

8. Referring to claim 28. Walker discloses a process of aggregating demands according to claim 11 indicated supra. Walker further discloses a process of aggregating demands wherein:

- o The purchase document is generated a pre-determined period of time after processing the incoming data (at least Walker: column 7, lines 22-37). The Examiner notes that “[booking] within 21 days of departure” is a predetermined time period for submitting offers.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker U.S. Patent No. 6,418,415.

9. Referring to claims 18-19. Walker discloses a process according to claim 17 as indicated supra. Walker further discloses a process of creating coalitions of demands comprising the step of permitting automatic addition of additional demands to said coalitions and also permitting coalitions to be automatically closed prior to said predetermined time period passing (at least Figs. 13A, Figs. 13B, and Figs. 13C). Walker does not expressly disclose a process of creating coalitions of demands comprising the step of permitting manual addition of additional demands to said coalitions and also permitting coalitions to be manually dosed prior to said predetermined time period passing.

The Examiner notes, the manual process present in the immediate application is considered an obvious variation of the method of Walker. It would have been obvious to a person of ordinary *skill* in the art at the time of the invention to permit the manual process in lieu of Walker's automatic process, because the manual process results in the same ultimate result and the substitution of the manual process versus the automated process does not otherwise affect the method of Walker. Moreover, the applicant has not persuasively demonstrated that permitting a manual step solves any stated problem or is for any particular purpose and it appears that the process of aggregating demands would perform equally well with either a manual or automatic process.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah R. Gedrich whose telephone number is (571) 272-8121. The examiner can normally be reached on M-F 7:30am - 5:00pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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